

AMENDED IN ASSEMBLY JULY 16, 2003

AMENDED IN SENATE JUNE 4, 2003

AMENDED IN SENATE APRIL 22, 2003

**SENATE BILL**

**No. 140**

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**Introduced by Senators Denham and Knight**  
(Principal coauthor: Assembly Member Nation)

February 6, 2003

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An act to ~~amend Section 46601.5 of, and to amend, add, and repeal Section 48204 of, and to add Section 46601.5 to,~~ the Education Code, relating to school attendance, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 140, as amended, Denham. Education: school attendance requirements.

(1) Existing law ~~requires~~ *required* any 2 school districts entering into an agreement for interdistrict attendance to give consideration to the child care needs of the pupil and requires any district that has entered into an agreement for interdistrict attendance to allow the pupil to remain continuously enrolled in the school district of choice, subject to certain requirements. Existing law ~~makes~~ *made* these provisions operative until July 1, 2003.

This bill would *reimpose those provisions, would* additionally prohibit a school district from requiring a pupil *in kindergarten or any of grades 1 to 6, inclusive,* attending the school pursuant to an interdistrict attendance agreement to annually reapply for interdistrict attendance in that school district, *and would require a school district to allow any pupil to remain continuously enrolled in the school district*

*of choice if the parent or guardian so chooses.* This bill would extend the operative date of those provisions until July 1, 2007.

(2) Existing law provides that a pupil is deemed to have complied with the residency requirements for school attendance in a school district, provided the pupil meets one of the specified requirements; ~~including that one or both of the parents or legal guardians of the pupil is employed within the boundaries of the school district. Existing law requires.~~

*This bill would require the school district in which the pupil's parent or guardian is employed to allow the pupil to attend the school through the 12th grade if the parent or guardian so chooses.* ~~Existing law makes those provisions permitting school district attendance based upon employment within the boundaries of a school district effective until July 1, 2003.~~

This bill ~~instead~~ would make those provisions *requiring the school district in which the pupil's parent or guardian is employed to allow the pupil to attend the school through the 12th grade* inoperative on and after July 1, 2007, and would repeal the provisions on January 1, 2008.

By ~~extending the requirement for requiring~~ a school district in which the pupil's parent or guardian is employed to allow the pupil to attend the school through the 12th grade if the parent or guardian so chooses, and by ~~extending the requirement for requiring~~ a governing board of any high school district whose feeder elementary school entered into an interdistrict transfer agreement based on a pupil's child care needs to allow that pupil to attend school in that district through the 12th grade if certain requirements are met, this bill imposes a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(4) This bill would become operative only if ~~Assembly Bill AB 97~~ is enacted and takes effect.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 ~~SECTION 1. Section 46601.5 of the Education Code is~~  
2 ~~amended to read:~~

3 *SECTION 1. Section 46601.5 is added to the Education Code,*  
4 *to read:*

5 46601.5. (a) The governing boards of any two school  
6 districts that have been requested by a pupil's parent or legal  
7 guardian to enter into an agreement for interdistrict attendance  
8 pursuant to Section 46600 shall, in considering that request, give  
9 consideration to the child care needs of the pupil.

10 (b) The governing board of any school district that has entered  
11 into an agreement for the interdistrict attendance of a pupil based  
12 on that pupil's child care needs may not require ~~that pupil~~ *those*  
13 *pupils in kindergarten or any of grades 1 to 6, inclusive,* to  
14 annually reapply for an interdistrict transfer and shall allow ~~that~~  
15 *any* pupil to remain continuously enrolled in the school district of  
16 choice if the parent or guardian so chooses, subject to paragraphs  
17 (1) to (6), inclusive, of subdivision (f) of Section 48204.

18 (c) The governing board of any high school district whose  
19 feeder elementary school has entered into an agreement with  
20 another school district for the interdistrict attendance of a pupil  
21 based on that pupil's child care needs shall allow that pupil to  
22 continue to attend school through the 12th grade in the same  
23 district if the parent or guardian so chooses, subject to paragraphs  
24 (1) to (6), inclusive, of subdivision (f) of Section 48204.

25 (d) This section shall remain in effect only until July 1, 2007,  
26 and as of that date is repealed, unless a later enacted statute, which  
27 is enacted before July 1, 2007, deletes or extends that date.

28 SEC. 2. Section 48204 is added to the Education Code, to  
29 read:

30 48204. Notwithstanding Section 48200, a pupil is deemed to  
31 have complied with the residency requirements for school  
32 attendance in a school district, if he or she is any of the following:

1 (a) A pupil placed within the boundaries of that school district  
2 in a regularly established licensed children's institution, or a  
3 licensed foster home, or a family home pursuant to a commitment  
4 or placement under Chapter 2 (commencing with Section 200) of  
5 Part 1 of Division 2 of the Welfare and Institutions Code.

6 An agency placing a pupil in a home or institution described in  
7 this subdivision shall provide evidence to the school that the  
8 placement or commitment is pursuant to law.

9 (b) A pupil for whom interdistrict attendance has been  
10 approved pursuant to Chapter 5 (commencing with Section 46600)  
11 of Part 26.

12 (c) A pupil whose residence is located within the boundaries of  
13 that school district and whose parent or legal guardian is relieved  
14 of responsibility, control, and authority through emancipation.

15 (d) A pupil who lives in the home of a caregiving adult that is  
16 located within the boundaries of that school district. Execution of  
17 an affidavit under penalty of perjury pursuant to Part 1.5  
18 (commencing with Section 6550) of Division 11 of the Family  
19 Code by the caregiving adult is a sufficient basis for a  
20 determination that the pupil lives in the caregiver's home, unless  
21 the school district determines from actual facts that the pupil is not  
22 living in the caregiver's home.

23 (e) A pupil residing in a state hospital located within the  
24 boundaries of that school district.

25 (f) An elementary school pupil, one or both of whose parents,  
26 or whose legal guardian, is employed within the boundaries of that  
27 school district.

28 (1) This subdivision does not require the school district within  
29 which the parents or guardians of a pupil are employed to admit  
30 the pupil to its schools. Districts may not, however, refuse to admit  
31 pupils under this subdivision on the basis, except as expressly  
32 provided in this subdivision, of race, ethnicity, sex, parental  
33 income, scholastic achievement, or any other arbitrary  
34 consideration.

35 (2) The school district in which the residency of either the  
36 parents or guardians of the pupil is established, or the school  
37 district to which the pupil is to be transferred under this  
38 subdivision, may prohibit the transfer of the pupil under this  
39 subdivision if the governing board of the district determines that



1 the transfer would negatively impact the court-ordered or  
2 voluntary desegregation plan of the district.

3 (3) The school district to which the pupil is to be transferred  
4 under this subdivision may prohibit the transfer of the pupil if the  
5 district determines that the additional cost of educating the pupil  
6 would exceed the amount of additional state aid received as a result  
7 of the transfer.

8 (4) The governing board of a school district that prohibits the  
9 transfer of a pupil pursuant to paragraph (1), (2), or (3) shall  
10 identify, and communicate in writing to the parents or guardians  
11 of the pupil, the specific reasons for that determination and shall  
12 ensure that the determination, and the specific reasons therefor, are  
13 accurately recorded in the minutes of the board meeting in which  
14 the determination was made.

15 (5) The average daily attendance for pupils admitted pursuant  
16 to this subdivision is calculated pursuant to Section 46607.

17 (6) Unless approved by the sending district, this subdivision  
18 does not authorize a net transfer of pupils out of any given district,  
19 calculated as the difference between the number of pupils exiting  
20 the district and the number of pupils entering the district, in any  
21 fiscal year in excess of the following amounts:

22 (A) For any district with an average daily attendance for that  
23 fiscal year of less than 501, 5 percent of the average daily  
24 attendance of the district.

25 (B) For any district with an average daily attendance for that  
26 fiscal year of 501 or more, but less than 2,501, 3 percent of the  
27 average daily attendance of the district or 25 pupils, whichever  
28 amount is greater.

29 (C) For any district with an average daily attendance of 2,501  
30 or more, 1 percent of the average daily attendance of the district  
31 or 75 pupils, whichever amount is greater.

32 (7) Once a pupil is deemed to have complied with the residency  
33 requirements for school attendance pursuant to this subdivision  
34 and is enrolled in a school in a school district whose boundaries  
35 include the location where one or both parents of a pupil is  
36 employed, or where the legal guardian of the pupil is employed,  
37 the pupil does not have to reapply in the next school year to attend  
38 a school within that school district and the district governing board  
39 shall allow the pupil to attend school through the 12th grade in that

1 district if the parent or guardian so chooses, subject to paragraphs  
2 (1) to (6), inclusive.

3 (g) This section is inoperative on and after July 1, 2007, and as  
4 of January 1, 2008, is repealed, unless a later enacted statute, that  
5 becomes operative on or before January 1, 2008, deletes or extends  
6 the dates on which it becomes inoperative and is repealed.

7 SEC. 3. Section 48204 of the Education Code, as amended by  
8 Section 19.5 of Chapter 299 of the Statutes of 1997, is amended  
9 to read:

10 48204. Notwithstanding Section 48200, a pupil is deemed to  
11 have complied with the residency requirements for school  
12 attendance in a school district, if he or she is:

13 (a) A pupil placed within the boundaries of that school district  
14 in a regularly established licensed children's institution, or a  
15 licensed foster home, or a family home pursuant to a commitment  
16 or placement under Chapter 2 (commencing with Section 200) of  
17 Part 1 of Division 2 of the Welfare and Institutions Code.

18 An agency placing a pupil in the home or institution shall  
19 provide evidence to the school that the placement or commitment  
20 is pursuant to law.

21 (b) A pupil for whom interdistrict attendance has been  
22 approved pursuant to Chapter 5 (commencing with Section 46600)  
23 of Part 26.

24 (c) A pupil whose residence is located within the boundaries of  
25 that school district and whose parent or legal guardian is relieved  
26 of responsibility, control, and authority through emancipation.

27 (d) A pupil who lives in the home of a caregiving adult that is  
28 located within the boundaries of that school district. Execution of  
29 an affidavit under penalty of perjury pursuant to Part 1.5  
30 (commencing with Section 6550) of Division 11 of the Family  
31 Code by the caregiving adult is a sufficient basis for a  
32 determination that the pupil lives in the caregiver's home, unless  
33 the school district determines from actual facts that the pupil is not  
34 living in the caregiver's home.

35 (e) A pupil residing in a state hospital located within the  
36 boundaries of that school district.

37 (f) This section is operative on and after July 1, 2007.

38 SEC. 4. Notwithstanding Section 17610 of the Government  
39 Code, if the Commission on State Mandates determines that this  
40 act contains costs mandated by the state, reimbursement to local

1 agencies and school districts for those costs shall be made pursuant  
2 to Part 7 (commencing with Section 17500) of Division 4 of Title  
3 2 of the Government Code. If the statewide cost of the claim for  
4 reimbursement does not exceed one million dollars (\$1,000,000),  
5 reimbursement shall be made from the State Mandates Claims  
6 Fund.

7 SEC. 5. This act is an urgency statute necessary for the  
8 immediate preservation of the public peace, health, or safety  
9 within the meaning of Article IV of the Constitution and shall go  
10 into immediate effect. The facts constituting the necessity are:

11 In order to maintain the status of existing law governing school  
12 district attendance, it is necessary that this act take effect  
13 immediately.

14 SEC. 6. This act shall become operative only if ~~AB~~ Assembly  
15 Bill 97 is enacted and takes effect.

